

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.1640 OF 2023

Sundarsen @ Sundarsingh @ Gulbya
S/o Shivaji Bhosle
Age: 23 years, Occu: Labor
R/o: Gondegaon Tq. Newasa
District Ahmednagar

... Applicant

Versus

The State of Maharashtra
Through Sonai Police Station
Tq. Newasa Dist. Ahmednagar

... Respondent

...

Mr. K. A. Ingle, Advocate for the Applicant
Mr. K. S. Patil, APP for the Respondent/State

...
CORAM : S. G. CHAPALGAONKAR, J.

DATE : 27.09.2023

PER COURT :

1. Heard the learned Advocate for the applicant and learned APP for the respondent/State.
2. By this application, the applicant seeks regular bail in connection with Crime No.59/2022 dated 23/02/2022 registered with Sonai Police Station, Taluka Newasa, District Ahmednagar, for the offences punishable under Sections 399, 402 of the Indian Penal Code [for short 'IPC'] and Section 4/25 of the Arms Act [for short 'the Act']
3. The investigation was set in motion on the basis of information given by one Ravindra Raosaheb Labade, who is a Police Officer at

Police Station Sonai. He states that, on 23/02/2022, he received a secret information that some persons are planing to commit decoity within Chanda and Mahalaxmi Hivre area. In pursuance of such secret information, the police party was patrolling in the area. At about 2:30 am, he received a phone call from police patil, namely, Shri. Ashok Waghmode that some persons are hidden in the bushes with their motorcycles. When the villagers were approaching them, they ran away. One amongst them has been caught hold by the villagers. It is further alleged that, on interrogation, the said person introduced himself as Rohan Bhosle and given the details of his absconded companions. It is alleged that, the incriminating articles like sickle, knife, chili powder etc. have been recovered from the possession of the apprehended accused. Based on the aforesaid information, offence under Sections 399, 402 of IPC and Section 4/25 of the Act came to be registered against the accused persons. The applicant has been arrested in pursuance of the aforesaid crime on 07/01/2023. Since then, he is behind the bars. His application for grant of bail has been rejected by the Sessions Court vide order dated 30/08/2023.

4. Learned Advocate appearing for the applicant would submit that the FIR has been registered on 23/02/2022. The applicant has been arrested after eleven months. Although his name is referred in the FIR on the basis of information given by co-accused, during the course of investigation, nothing is gathered to show his complicity in commission of the offence. He would submit that only because there are previous offences registered against the applicant, he has been falsely implicated in the crime. Hence, he urges to release the applicant on bail.

5. Learned APP however opposes the prayer for grant of bail. He would submit that the applicant is named by the accused, who was apprehended on the spot. He was absconding for the period of more than ten months. The circumstances on record are sufficient to bring home his complicity in the offence. The learned APP also points out that there are as many as six similar offences registered against the applicant. In case of grant of bail, the possibility of absconding cannot be ruled out. Hence, he urges to reject the bail application.
6. Having considered the submissions advanced, apparently, on the basis of alleged information given by co-accused, the name of the applicant is recorded in the FIR as one of the person, who was present along with the apprehended accused. The perusal of the charge-sheet would show that in the entire charge-sheet except the statement of police persons and so called disclosure by apprehended accused, there is no evidence that would indicate presence of the applicant on the spot at the time of offence. There is nothing to show complicity of applicant in commission of offence. The applicant has been arrested on 07/01/2023. The trial is likely to take its own time. Prima facie, on the basis of evidence available on record, it would be difficult to make out any offence against the applicant as alleged. The material in charge-sheet is bereft to bring home guilt against him. In that view of the matter, further detention of the applicant would not be necessary. However, considering the criminal antecedents, stringent conditions are required to be imposed to him. Hence, the following order:

ORDER

- (i) Bail Application is allowed.

- (ii)** The applicant, namely, Sundarsen @ Sundarsingh @ Gulbya S/o Shivaji Bhosle be released on bail in connection with Crime No.59/2022, registered with Sonai Police Station, Taluka Newasa, District Ahmednagar, for the offences punishable under Sections 399, 402 of IPC and Section 4/25 of the Act on furnishing P.B. and S.B. of Rs.50,000/- (Rs. Fifty Thousand Only) on the following conditions:
- (a)** The applicant shall not tamper with the prosecution evidence / witnesses in any manner.
 - (b)** He shall attend the concerned Police Station once in a month and update his residential address and contact number.
 - (c)** He shall not indulge in similar offence.
 - (d)** He shall attend each and every effective date during the course of trial.
- (iii)** Bail Application is disposed of accordingly.

[S. G. CHAPALGAONKAR]
JUDGE

Sameer